



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS06000 L12200000.DU0000]

Notice of Final Supplementary Rules for Travel Management on Public Lands in Gunnison, Montrose, Hinsdale, and Saguache Counties, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Final Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) in Colorado is finalizing supplementary rules for public lands addressed in the Gunnison Basin Federal Lands Travel Management Plan (TMP), approved on June 28, 2010. These final supplementary rules apply to public lands administered by the BLM Gunnison Field Office in Gunnison, Montrose, Hinsdale, and Saguache counties, Colorado. The final rules implement decisions found in the TMP relating to the use of motorized and non-motorized vehicles.

DATES: These supplementary rules are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send inquiries by the following methods: Mail or hand deliver to Kristi Murphy, Outdoor Recreation Planner, BLM Gunnison Field Office, 210 West Spencer Street, Suite A, Gunnison, CO 81230. You may also send inquiries via email to kmurphy@blm.gov (include "Final Supplementary Rules" in the subject line).

FOR FURTHER INFORMATION CONTACT: Kristi Murphy, Outdoor Recreation Planner, at the above address, by phone at 970-642-4955, or by email at kmurphy@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339 to contact the

above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background

Prior to 2010, the BLM Gunnison Field Office used the BLM's 1980 Transportation Plan and the 2001 Gunnison Interim Travel Plan to manage travel on BLM-managed lands.

As required in the 2001 Travel Plan, the BLM and the U.S. Forest Service embarked on a planning process to develop a more definitive and comprehensive system of routes across Federal lands in the Gunnison Basin. The two agencies jointly published a Notice of Intent to Prepare an Environmental Impact Statement (EIS) in the Federal Register at 72 FR 24267 (May 2, 2007). They subsequently published the Gunnison Basin Federal Lands Travel Management Plan EIS (CO-160-2008-025-EIS). Following analysis of the public comments, the BLM issued a decision record on June 28, 2010. The 2010 TMP replaces the 1980 Transportation Plan and the 2001 Interim Travel Plan. These final supplementary rules enable the BLM to implement several key decisions contained in the 2010 TMP to protect natural resources and provide for public health and safety. No other existing rules are affected by these final supplementary rules. The proposed supplementary rules were published in the Federal Register at 78 FR 26804 on May 8, 2013, and the public comment period ended July 8, 2013. The final supplementary rules are consistent with the Decision Record for the TMP, which was approved on June 28, 2010.

These final supplementary rules apply to public lands administered by the BLM Gunnison Field Office. The 2010 TMP area consists of approximately 585,012 acres of public lands within Gunnison, Montrose, Hinsdale, and Saguache counties, Colorado, in the following described townships:

Sixth Principal Meridian

Tps. 11 S., Rs. 83 and 84 W., unsurveyed.
Tps. 11 S., Rs. 86 and 87 W., partly unsurveyed.
Tps. 12 S., Rs. 82 to 87 W., partly unsurveyed.
Tps. 13 S., Rs. 80 to 87 W., partly unsurveyed.
Tps. 14 S., Rs. 80 to 88 W., partly unsurveyed.
Tps. 15 S., Rs. 81 to 88 W., partly unsurveyed.

New Mexico Principal Meridian

Tps. 43 N., Rs. 1 and 2 E., partly unsurveyed.
Tps. 44 N., Rs. 1, 2, and 3 E., partly unsurveyed.
Tps. 45 N., Rs. 1, 2, and 3 E., partly unsurveyed.
Tps. 46 N., Rs. 1 to 4 E., partly unsurveyed.
Tps. 47 N., Rs. 1 to 7 E., partly unsurveyed.
Tps. 48 N., Rs. 1 to 7 E.
Tps. 49 N., Rs. 1 to 6 E.
Tps. 50 N., Rs. 1 to 6 E.
Tps. 51 N., Rs. 1 to 5 E.
Tps. 41 N., Rs. 5 and 6 W., unsurveyed.
Tps. 42 N., Rs. 3 to 6 W., partly unsurveyed.
Tps. 43 N., Rs. 1 to 7 W., partly unsurveyed.
Tps. 44 N., Rs. 1 to 6 W., partly unsurveyed.

Tps. 45 N., Rs. 1 to 6 W., partly unsurveyed.

Tps. 46 N., Rs. 1 to 6 W., partly unsurveyed.

Tps. 47 N., Rs. 1 to 6 W.

Tps. 48 N., Rs. 1 to 6 W.

Tps. 49 N., Rs. 1 to 6 W.

Tps. 50 N., Rs. 1 to 4 W.

Tps. 51 N., Rs. 1 to 4 W.

II. Discussion of Public Comments and Final Supplementary Rules

The BLM received comments from five parties. Upon review of the comments, the BLM made one minor change to the definition of the term “existing travel routes,” discussed below.

Two parties disagreed with the 2010 TMP decision and asked to keep more routes open to motorized and mechanized uses. Changing the 2010 TMP decision would be a separate action that would require additional site-specific environmental analysis and is outside the scope of these final supplemental rules.

Two parties expressed concern over possibly losing right-of-way (ROW) access across BLM-administered lands. The Decision Record for the 2010 TMP addressed ROW access. Supplementary rules do not affect access routes to maintain transmission lines or access private property because those roads and routes are (or will be as the ROWs are amended and/or renewed), covered under the appropriate BLM ROWs.

Another party suggested that the terms of the supplementary rules be consistent with TMP language. The party expressed concern that terms such as “designated travel routes” and “existing travel routes” could cause confusion, were too vague, or might lead to resource degradation when interpreting the exceptions allowed for travel off of

designated roads. The proposed supplementary rule defined designated travel routes as roads and trails open to specified modes of travel and identified on a map of designated roads and trails that is maintained and available for public inspection at the BLM Gunnison Field Office. The commenter also asked the BLM to clarify that the 30-foot exception only applies when there is no existing route available. The commenter further suggested that additional restrictions regarding parallel travel routes and resource damage be added to the 30-foot exception. As the rule states, the exception for motorized travel off of designated roads is clearly for the purpose of parking or camping. In addition, the BLM has an existing rule (43 CFR 8341.1(f)(4)) that prohibits resource damage that would apply if parking is causing resource damage or if off-road travel is creating a parallel travel route. Such a restatement of the existing rules is not necessary and would be contrary to the BLM policy regarding the purpose of supplementary rules (WO IM-2013-161).

The same commenter was also concerned that people may travel further than 300 feet from a designated road on an existing route to camp or park. This commenter encouraged the BLM to sign, mark, and monitor existing dispersed campsites and to close routes that are more than 300 feet long or creating resource damage. It is the responsibility of public land users to know and follow the rules. As discussed in the 2010 TMP Decision Notice, the BLM will continue to conduct such monitoring and implementation as available funding, staff, materials, equipment, and volunteer resources allow. It would be impractical, as well as visually intrusive, for the BLM to mark this distance on each possible route off of designated roads.

The commenter was also concerned that the definition of “existing travel route” is too vague and could allow motorized use on the track left by front tires (followed by the rear tires) on game trails, cow paths, footpaths, single-track trails, and All-Terrain Vehicle trails. The commenter also suggested that the definition include a reference to a point in time, e.g., when the decision was made. The BLM established and defined designated route travel in 2001 through the Gunnison Interim Travel Restrictions Decision (Decision Notice, April 2001), which restricted motorized and mechanized use (wheeled vehicles used for human transport) to established routes. Established routes are roads and trails recognized by the agencies as existing on the ground as of January 12, 2001, and receiving enough use to remain recognizable as a route. That restriction remains in place and is part of the existing condition. The definition of “existing travel routes” has been clarified in the final supplementary rule as requested.

Another commenter suggested changing the definition of camping to make a distinction between “camping from a vehicle” and “camping from a pack.” The definition of camping as used in the supplementary rules is for the purpose of describing an exception for motorized travel off of designated roads. For purposes of the supplementary rules, there is no need to differentiate backcountry camping from vehicle camping. The commenter was also concerned about subsequent on-the-ground actions the BLM may take to implement route closures that may prevent pedestrian use of closed routes. This is not within the scope of these supplementary rules as the rules only address motorized and mechanized travel.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These final supplementary rules would not have an effect of \$100 million or more on the economy. These final supplementary rules would not adversely affect in a material way the economy; productivity; competition; jobs; the environment; public health or safety; or State, local or tribal governments or communities. These final supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These final supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees or loan programs, or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These final supplementary rules would not affect legal commercial activity, but merely impose limitations on certain recreational activities on certain public lands to protect natural resources and human health and safety.

National Environmental Policy Act

These final supplementary rules implement key decisions in the 2010 TMP. During the National Environmental Policy Act (NEPA) review for the 2010 TMP, the BLM fully analyzed the substance of these final supplementary rules in an EIS (CO-160-2008-025-EIS). The BLM signed the Decision Record for the EIS on June 28, 2010. The 2010 TMP EIS and Decision Record and a subsequent Determination of NEPA Adequacy are on file in the BLM Gunnison Field Office at the address specified in the ADDRESSES section. The BLM finds that the EIS associated with the 2010 TMP is adequate for these supplementary rules.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These final supplementary rules would have no effect on business entities of any size. These final supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM has determined under the RFA that these final supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These final supplementary rules are not a "major rule" as defined at 5 U.S.C. 804(2). These final supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. These final supplementary rules would not:

- (1) Have an annual effect on the economy of \$100 million or more;
- (2) Cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local agencies, or geographic regions; or
- (3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These final supplementary rules would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor would these final supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. The final supplementary rules would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These final supplementary rules do not constitute a government action capable of interfering with constitutionally-protected property rights. The final supplementary rules would not address property rights in any form and would not cause the impairment of constitutionally-protected property rights. Therefore, the BLM has determined that these final supplementary rules would not cause a “taking” of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The final supplementary rules would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Colorado State Director has determined that these final supplementary rules would not unduly burden the judicial system and that they meet the requirements of Sections 3(a) and 3(b) (2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these final rules do not include policies that have tribal implications and would have no bearing on trust lands or on lands for which title is held in fee status by Indian tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing these final supplementary rules, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Public Law 106-554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These final supplementary rules do not comprise a significant energy action. These final supplementary rules would not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the final supplementary rules would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other

legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the programs, projects and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

These final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 - 3521.

Author

The principal author of these final supplementary rules is Kristi Murphy, Outdoor Recreation Planner, BLM, Gunnison Field Office.

IV. Final Supplementary Rules

For the reasons stated in the Preamble, and under the authority of 43 U.S.C. 315a, 1733(a), and 1740, and 43 CFR 8365.1-6, the State Director establishes supplementary rules for public lands within the Gunnison Field Office, Colorado, to read as follows:

SUPPLEMENTARY RULES FOR THE GUNNISON BASIN TRAVEL MANAGEMENT PLAN

Definitions:

Camping means erecting a tent or a shelter of natural or synthetic materials; preparing a sleeping bag or other bedding material for use; or parking a motor vehicle, motor home, or trailer for the purpose or apparent purpose of overnight occupancy.

Designated travel routes means roads and trails open to specified modes of travel and identified on a map of designated roads and trails that is maintained and available for

public inspection at the BLM Gunnison Field Office, Colorado. Designated roads and trails are open to public use in accordance with such limits and restrictions as are, or may be, specified in the resource management plan (RMP) or TMP, or in future decisions implementing the RMP. This definition excludes any road or trail with BLM-authorized restrictions that prevent use of the road or trail. Restrictions may include signs or physical barriers such as gates, fences, posts, branches, or rocks.

Existing travel routes means immediately-recognizable motor vehicle travel routes or two-track trails that are not identified as closed to motorized vehicle use by a BLM sign or map and are recognized by the BLM as existing on the ground as of January 12, 2001.

Public land means any land or interest in land owned by the United States and administered by the Secretary of the Interior through the BLM without regard to how the United States acquired ownership.

Mechanized vehicle means a human-powered mechanical device, such as a bicycle, not powered by a motor.

Motorized vehicle means a vehicle that is propelled by a motor or engine, such as a car, truck, off-highway vehicle, motorcycle, or snowmobile.

Prohibited Acts

1. Except as provided by Rule 2 below, you must not operate or possess a motorized or mechanized vehicle in an area designated as closed to such use by a BLM sign or map.
2. You must not operate or possess a mechanized or motorized vehicle except in areas designated or routes identified for such use by a BLM sign or map, unless:

- You are using a mechanized game cart for the purpose of retrieving a large game animal with a valid carcass tag outside of Congressionally-designated wilderness areas or wilderness study areas; or
- You are using a motorized vehicle for the purpose of parking or camping within 30 feet of the edge of a designated travel route or on existing travel routes within 300 feet of a designated travel route.

3. You must not operate or possess a motorized vehicle from March 15 to May 15 in specific areas of identified priority sage-grouse habitat as designated by a BLM sign or map.

Exceptions

These supplementary rules do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or other emergency purposes, or to any other vehicle use that is expressly authorized or otherwise officially approved by the BLM.

Penalties

Under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more

than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Ruth Welch,

BLM Colorado State Director.

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[FR Doc. 2015-01220 Filed 01/22/2015 at 8:45 am; Publication Date: 01/23/2015]